GOVERNMENT OF MYSORE

[FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)]

Labour Dispute.—Industrial Dispute between the Workmen and the Management of M/s. Jayaram Tile Works, Baloor, Mangalore.

Award of the Labour Court, Hubli—Published.

Read the following papers :—

(1) Letter No. 1470/67-68, dated 7th October 1967, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated : 7th October 1967.

Reference.

(ID) (LCH) No. 42 of 1967.

Present :

Shri Syed Azizuddin Ahmed M.A., B.L., ... *Presiding Officer.*

Between :

The Workmen of M/s. Jayaram Tile Works, Boloor, Mangalore represented by The Secretary, South Kanara Tile Workers, Union, Bolar, Mangalore. ... *I Party*

and

The Management of M/s. Jayaram Tile Works, Boloor, Mangalore. ... *II Party*

This is an industrial dispute between the Workmen and the Management of M/s. Jayaram Tile Works, Boloor Mangalore raised by the Secretary, South Kanara Tile Workers' Union, Boloor, Mangalore. The Government of Mysore in their Order No. LMA 836 LLD 67, dated 6th June 1967, in exercise of the powers conferred upon them under Section 10 (1) (c) of the Industrial Disputes Act, 1947, referred the same to this Court for adjudication, the points of dispute being.

I. Is the Management of M/s. Jayaram Tile Works, Bolcor Mangalore, justified in refusing employment to Sri Kunhanna Shetty with effect from 11th November 1965?

II. If not, to what other relief is the worker entitled?

2. Sri Srinivas appeared for the I Party while Sri D. S. Somashekhar Alva, advocate appeared for the second. In response to the notices issued by the Court, the parties have filed their pleadings dated 10th July 1967 and 7th August 1967 respectively.

3. The case of the I Party is that Sri Kunhanna Shetty, the aggrieved workman was employed with the II Party. On 11th November 1965, the proprietor of the II Party asked the aggrieved workman to do work other than his usual work and when he refused to do the same, he abused him in a filthy language and refused him employment itself. The action of the II Party besides being arbitrary, is unjust and illegal. It was prayed that he may be reinstated with full back-wages.

4. The II Party contested the claim statement. It maintained that the II Party never refused employment to the aggrieved workman. He himself did not report to work from 11th November 1965. It is false that the proprietor had abused him in filthy language. The points of dispute specified in the order of reference were adopted as issues in the case. The I Party examined one witness while the II Party examined two witnesses and closed their oral evidence. The I Party got marked two documents as exhibits while no documents were filed on behalf of the II Party.

FINDINGS

5. The principal point that arises for determination is whether the management had refused employment to the aggrieved workman with effect from 11th November 1965. Ramaiah Shetty M. W. 1 deposed that he is working in the II Party concern since last 18 years. Kunhanna Shetty is not coming to the factory of the II Party since last one year and 9 months. The II Party did not refuse him work. Kunhanna Shetty had worked in the factory for about 8 years. There is no enemity between him and

Kunhanna Shetty. D. A Maben, M. W. 2 is a Mechanic in the II Party. He deposed that he is working there since last 18 years. Kunhanna Shetty is not attending the factory since last 21 months. The II Party never abused him and did not refuse him work.

6. In rebuttal, Kunhanna Shetty, W. W 1 deposed that he used to polish the tiles in the factory of the II Party D. A. Maben, M. W 2 asked him to carry slabs from the engine. He refused to do the work because it was strenuous to his capacity. Thereupon, he told him that he would teach him a lesson. The next day, the proprietor approached him and asked him to perform the work which M. W. 2 had asked him to do He wept and told the proprietor that it was too heavy for him. The proprietor asked him to carry two or three loads at least to honour the words of M. W. 2. He carried two loads and on the third trip he fell down. He reported his fall to the proprietor, who was in his office. The latter abused him and asked him not to work any more. He said go away from the premisess and pluck the hair of the genital organ.

7. On a balancing of the parties' evidence, I find the deposition of the aggrieved workman thoroughly unreliable. The story that has been put forward in the Court is different from story that has been set up in the claim statement. In the claim statement it has been stated that the proprietor asked the aggrieved workman to do work other than his usual work. In the sworn testimony it has been tried to make out that the aggrieved workman used to polish the tiles and that the mechanic had asked him to carry the slabs from the engine. Again in his sworn statement, the aggrieved workman stated that the proprietor had asked him to carry at least two or three loads to honour the words of the mechanic. In order to instil the sense of discipline in the workmen of the factory, it was not wrong on the part of the proprietor to ask the aggrieved workman to carry two or three loads to honour the words of the mechanic. The behaviour of the aggrieved workman was certainly objectionable. On his own admission, he carried two loads and on the third trip he fell down with the load. I am sure the load could not have been so heavy as to make him fall. If the mechanic or the proprietor had beenso cruel as to ask him to carey load beyond his capacity, no wonder that all the workmen in the factory would have pounced up n the mecnanic and the proprietor and torn them to pieces. I understand that there are about 125 workmen working in the factory.

The I Party could not examine a single witness to corroborate the testimony of W. W 1. When the aggrieved workman had carried out the woros of the proprietor, I do not see the reason why he should have got wild and abused him.

8. On over all consideration of the entire material on record and on a balancing of the oral evidence in the case, I am inclined to take the view that the aggrieved workman, having refused to do the work asked by the mechanic, voluntarily gave up the job. There was nothing wrong in the mechanic asking him to carry the slabs from the engine for, the aggrieved workman has admitted during the course of his cross examination that when there was no sufficient work in his section, he would be assigned some other work. The points of dispute are decided against the I Party.

AWARD.

From the material on record it transpires that the aggrieved workman had voluntarily abstained from attending to his work from 11th November 1965. In view of this, he is not entitled to any relief. The parties shall bear their own costs.

Place: Hubli

Date: 7th October 1967.

SYED AZIZUDDIN AHMED,
Presiding Officer
Labour Court, Hubli.

ANNEXURE

Reference (ID) (LCH) No. 42/1967

Witnesses examined for I Party

W. W. 1 Kunhanna Shetty S/o Koraga Shetty

Witnesses examined for II Party

M. W. 1 Ramiah Shetty S/o Nanayanna Shetty
M. W. 2 D. A. Maben S/o Simpson Maben

Documents marked for I Party

Exhibits:

W.—1 Letter dated 11th November 1965 from I Party to II Party
W—2 Conciliation proceedings dated 13th February 1967.

Documents marked for II Party

Nil

Place: Hubli

Date: 7th October 1967.

SYED AZIZUDDIN AHMED
Presiding Officer
Labour Court, Hubli.

ORDER.

Bangalore, dated 31st October 1967.

S.O. 2956.—WHEREAS by State Government Order No. LMA 336 LLD 67, dated 6th June 1967 the Industrial Dispute between the Workmen and the Management of M/s Jayaram Tile Work, Baikor, Mangalore was referred to the Labour Court, Hubli for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore, are pleased to direct the publication of the said Award as above, in the *Mysore Gazette*.

[No. LMA 336 LLD 67.]

By Order and in the name of the Governor of Mysore,

1327 G. G. PUROHIT, *Under Secy.*